

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America)

v.)

Timothy Gerome McCullers)

Case No: 5:94-CR-97-6F

USM No: 15233-056

Date of Previous Judgment: September 5, 1995)

(Use Date of Last Amended Judgment if Applicable))

Defendant's Attorney Thomas P. McNamara

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of the _____ defendant _____ under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and the court having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____ months.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: _____

Amended Offense Level: _____

Criminal History Category: _____

Criminal History Category: _____

Previous Guideline Range: _____ to _____ months

Amended Guideline Range: _____ to _____ months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ Other (explain) :

III. ADDITIONAL COMMENTS

After reviewing all relevant factors, the court finds that Section 1B1.10, Application Note 4(A), Exclusion Relating to Revocation, provides that only a term of imprisonment imposed as part of the original sentence is authorized to be reduced under this section. A reduction in the term of imprisonment imposed upon revocation of supervised release is not authorized. The sentence for which the defendant is currently incarcerated results from a revocation of supervised release. Therefore, the defendant is not eligible for a reduction under 18 U.S.C. § 3582(c)(2) and Amendment 706 as amended, and the defendant's motion is denied.

Except as provided above, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date: 9/1/10

James C. Fox
Judge's signature

Effective Date: _____
(if different from order date)

James C. Fox, Senior U.S. District Judge
Printed name and title